



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2012-0001]

RIN 1625-AA00

Safety Zone; Magothy River, Sillery Bay, MD

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

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SUMMARY: The Coast Guard is establishing a safety zone in certain waters of the Magothy River, in Sillery Bay, Maryland. This safety zone is necessary to provide for the safety of life, property and the environment. This safety zone restricts the movement of vessels throughout the regulated area during The Bumper Bash, held annually on the fourth Saturday of July.

DATES: This rule is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2012-0001 and are available online by going to <http://www.regulations.gov>, inserting USCG-2012-0001 in the "Keyword" box, and then clicking "Search." This material is

also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Mr. Ronald Houck, Sector Baltimore Waterways Management Division, Coast Guard; telephone 410-576-2674, e-mail [Ronald.L.Houck@uscg.mil](mailto:Ronald.L.Houck@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On February 27, 2012, we published a notice of proposed rulemaking (NPRM) entitled "Safety Zone; Magothy River, Sillery Bay, MD" in the Federal Register (77 FR 11423). We received no comments on the proposed rule. No public meeting was requested, and none was held.

##### Basis and Purpose

Each year, on the fourth Saturday in July, hundreds of recreational boaters meet in Sillery Bay at Dobbins Island, Maryland for a gathering called "The Bumper Bash." The activity began in 2007. Due to the growing presence of boaters in recent years, the annual gathering has become

increasingly congested. In recent years, an estimated 700 recreational boats were anchored or moored alongside other boats (rafts). The crowds of persons on recreational vessels or other water craft create large lines of rafted boats filling in the beachfront area of Dobbins Island. The persons and vessels exceeded a safe limit. Accidental drownings, personnel injuries, boat fires, boat capsizings and sinkings, and boating collisions are safety concerns during such overcrowded events. Access on the water for emergency response to the beach area is critical. The Coast Guard has the authority to impose appropriate controls on activities that may pose a threat to persons, vessels and facilities under its jurisdiction. The Coast Guard sees the need for a permanent safety zone that will be enforced annually on the fourth Saturday in July, during a gathering of persons on recreational vessels and other water craft held in the Magothy River, in Sillery Bay, Maryland. The zone is needed to control movement within a waterway that is expected to be populated by persons and vessels seeking to attend The Bumper Bash activity.

#### Background

The Coast Guard anticipates a large recreational boating fleet in the Magothy River, in Sillery Bay, during The Bumper Bash at Dobbins Island, Maryland annually on the fourth Saturday in July. Due to the need to provide for the

safety of persons and vessels within the regulated area vessel traffic will be restricted during the activity.

The purpose of this rule is to promote maritime safety, and to protect the environment and mariners transiting the area from the potential hazards associated with a large gathering of recreational vessels and other watercraft along a confined beachfront area with swimmers and others present. This rule establishes a safety zone in all waters of the Magothy River, in Sillery Bay, contained within lines connecting the following positions: from position latitude 39°04'40" N, longitude 076°27'44" W; thence to position latitude 39°04'48" N, longitude 076°27'19" W; thence to position latitude 39°04'59" N, longitude 076°27'45" W; thence to position latitude 39°04'59" N, longitude 076°28'01" W; thence to position latitude 39°04'41" N, longitude 076°27'51" W; thence to the point of origin at position latitude 39°04'40" N, longitude 076°27'44" W. All coordinates reference Datum NAD 1983. The rule will impact the movement of all persons and vessels in the regulated area, and will limit the density of vessels and other watercraft operating, remaining or anchoring within the regulated area at the discretion of the Captain of the Port Baltimore, to ensure an open water route remains accessible to law enforcement and emergency personnel during the effective period. Public vessels located within the

regulated area will not contribute to the density determination.

#### Discussion of Comments and Changes

The Coast Guard received no comments in response to the NPRM. No public meeting was requested and none was held.

#### Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

##### Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. The effect of this regulation will not be significant due to the limited size and duration that the regulated area will be in effect and vessels transiting the Magothy River may proceed safely around the zone. In addition, notifications will be made to the maritime community via marine information broadcasts so mariners may adjust their plans accordingly.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-

612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which might be small entities: the owners or operators of vessels intending to operate, remain or anchor within the safety zone, from 8 a.m. until 10 p.m. on the fourth Saturday in July annually. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Traffic would be allowed to pass within the safety zone with the permission of the Captain of the Port Baltimore. Vessels transiting the Magothy River may proceed safely around the zone. Also, the Coast Guard will issue maritime advisories widely available to users of the waterway before the effective period.

#### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), in

the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that

Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and

Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under

figure 2-1, paragraph (34)(g), of the Instruction. This rule involves certain regulations for vessels navigating the waters of the Magothy River, in Sillery Bay, and fits within the category paragraph 34(g) because it establishes a safety zone.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165--REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.513 to read as follows:

§ 165.513 Safety Zone; Magothy River, Sillery Bay, MD.

(a) Regulated area. The following area is a safety zone: All waters of the Magothy River, in Sillery Bay, contained within lines connecting the following positions:

from position latitude 39°04'40" N, longitude 076°27'44" W; thence to position latitude 39°04'48" N, longitude 076°27'19" W; thence to position latitude 39°04'59" N, longitude 076°27'45" W; thence to position latitude 39°04'59" N, longitude 076°28'01" W; thence to position latitude 39°04'41" N, longitude 076°27'51" W; thence to the point of origin at position latitude 39°04'40" N, longitude 076°27'44" W. All coordinates reference Datum NAD 1983.

(b) Definitions. As used in this section:

(1) Captain of the Port Baltimore means the Commander, U.S. Coast Guard Sector Baltimore, Maryland.

(2) Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Baltimore to assist in enforcing the safety zone described in paragraph (a) of this section.

(c) Regulations. (1) All persons are required to comply with the general regulations governing safety zones found in 33 CFR 165.23.

(2) All vessels and persons are prohibited from entering and accessing this safety zone, except as authorized by the Captain of the Port Baltimore or his or her designated representative.

(3) Persons or vessels requiring entry into or passage within the safety zone must request authorization from the

Captain of the Port Baltimore or his or her designated representative, by telephone at (410) 576-2693 or by marine band radio on VHF-FM Channel 16 (156.8 MHz), from 8 a.m. until 10 p.m. on the fourth Saturday in July annually. All Coast Guard vessels enforcing this safety zone can be contacted on marine band radio VHF-FM Channel 16 (156.8 MHz).

(4) All vessels and persons must comply with instructions of the Captain of the Port Baltimore or his or her designated representative.

(5) The operator of any vessel entering or located within this safety zone shall:

(i) Travel at no-wake speed,

(ii) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign, and

(iii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign.

(d) Enforcement. The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by any Federal, State, and local agencies.

(e) Enforcement period. This section will be enforced from 8 a.m. until 10 p.m. on the fourth Saturday in July annually.

Dated: April 4, 2012

Mark P. O'Malley  
Captain, U.S. Coast Guard  
Captain of the Port Baltimore.

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